

§ 12.150

MERCHANDISE SUBJECT TO ECONOMIC SANCTIONS

§ 12.150 Merchandise prohibited by economic sanctions; detention; seizure or other disposition; blocked property.

(a) *Generally.* Merchandise from certain countries designated by the President as constituting a threat to the national security, foreign policy, or economy of the United States shall be detained until the question of its release, seizure, or other disposition has been determined under law and regulations issued by the Treasury Department's Office of Foreign Assets Control (OFAC) (31 CFR Chapter V).

(b) *Seizure.* When an unlicensed importation of merchandise subject to OFAC's regulations is determined to be prohibited, no entry for any purpose shall be permitted and, unless the immediate reexportation or other disposition of such merchandise under Customs supervision has previously been authorized by OFAC, the merchandise shall be seized.

(c) *Licenses.* OFAC's regulations may authorize OFAC to issue licenses on a case-by-case basis authorizing the importation of otherwise prohibited merchandise under certain conditions. If such a license is issued subsequent to the attempted entry and seizure of the merchandise, importation shall be conditioned upon the importer:

(1) Agreeing in writing to hold the Government harmless, and

(2) Paying any storage and other Customs fees, costs, or expenses, as well as any mitigated forfeiture amount or monetary penalty imposed or assessed by Customs or OFAC, or both.

(d) *Blocked property.* Merchandise which constitutes property in which the government or any national of certain designated countries has an interest may be blocked (frozen) pursuant to OFAC's regulations and may not be transferred, sold, or otherwise disposed of without an OFAC license.

(e) *Additional information.* For further information concerning importing merchandise prohibited under economic sanctions programs currently in effect, the Office of Foreign Assets Control of the Department of the Treasury should be contacted. The address of that office

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is 1500 Pennsylvania Ave., NW., Annex 2nd Floor, Washington, DC 20220.

[T.D. 96-42, 61 FR 24889, May 17, 1996]

§ 12.151 Prohibitions and conditions on importations of jadeite, rubies, and articles of jewelry containing jadeite or rubies.

(a) *General.* The importation into the United States of jadeite, rubies, and articles of jewelry containing jadeite or rubies is prohibited or conditioned as described in this section pursuant to the Tom Lantos Block Burmese JADE Act of 2008 (Pub. L. 110-286). For purposes of this section, the following definitions apply:

(1) *Jadeite.* "Jadeite" means any jadeite classifiable under heading 7103 of the Harmonized Tariff Schedule of the United States (HTSUS);

(2) *Rubies.* "Rubies" means any rubies classifiable under heading 7103 of the HTSUS;

(3) *Articles of jewelry containing jadeite or rubies.* "Articles of jewelry containing jadeite or rubies" means any article of jewelry classifiable under heading 7113 of the HTSUS that contains jadeite or rubies, or any article of jadeite or rubies classifiable under heading 7116 of the HTSUS; and

(4) *United States.* "United States" means the 50 states, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) *Prohibited Articles.* The following articles are prohibited from importation into the United States (*see* 31 CFR part 537):

(1) Jadeite mined or extracted from Burma;

(2) Rubies mined or extracted from Burma; and

(3) Articles of jewelry containing jadeite or rubies mined or extracted from Burma.

(c) *Regulated Articles.* Jadeite, rubies, or articles of jewelry containing jadeite or rubies may not be imported into the United States unless the importer certifies (*see* paragraph (d) of this section) that those jadeite or rubies were mined or extracted from a country other than Burma and possesses the documents described in paragraph (e) of this section.

(d) *Certification of importer.* Pursuant to Additional U.S. Note 4(a), Chapter 71, HTSUS, if an importer enters any good (or withdraws any good from warehouse for consumption) under heading 7103, 7113, or 7116 of the HTSUS, the presentation of the entry serves as a certification by the importer that any jadeite or rubies contained in such good were not mined or extracted from Burma.

(e) *Certification of exporter.* If an importer enters (or withdraws from warehouse for consumption) jadeite, rubies, or jewelry containing jadeite or rubies:

(1) The importer must have in his possession a certification from the exporter (exporter certification) certifying that the jadeite or rubies were not mined or extracted from Burma, with verifiable evidence from the exporter that tracks the jadeite or rubies: In rough form, from mine to exportation; and for finished jadeite, polished rubies, and articles of jewelry containing jadeite or rubies, to the place of final finishing; and

(2) The importer must maintain, for a period of not less than 5 years from the date of entry of the good, a full record of, in the form of reports or otherwise, complete information relating to any act or transaction related to the purchase, manufacture, or shipment of the good.

(f) *Requirement to provide information.* An importer who enters any good (or withdraws any good from warehouse for consumption) under heading 7103, 7113, or 7116 of the HTSUS must provide all documentation to support the certifications described in paragraphs (d) and (e) of this section to CBP upon request or be subject to recordkeeping penalties under part 163 of the chapter.

(g) *Inapplicability.* This section does not apply to the following articles:

(1) Jadeite, rubies, and articles of jewelry containing jadeite or rubies that are reimported into the United States after having been previously exported from the United States, including those that accompanied an individual outside the United States for personal use, if they are reimported into the United States by the same person who exported them, without having been advanced in value or improved in condition by any process or other

means while outside the United States; and

(2) Jadeite or rubies mined or extracted from a country other than Burma, and articles of jewelry containing jadeite or rubies mined or extracted from a country other than Burma that are imported by or on behalf of an individual for personal use and accompanying an individual upon entry into the United States.

[CBP Dec. 09-01, 74 FR 2846, Jan. 16, 2009]

§ 12.152 Prohibitions and conditions on the importation and exportation of rough diamonds.

(a) *General.* The Clean Diamond Trade Act (Pub. L. 108-19) requires the President, subject to certain waiver authorities, to prohibit the importation into, or exportation from, the United States, of any rough diamond, from whatever source, that has not been controlled through the Kimberley Process Certification Scheme. By Executive Order 13312 dated July 29, 2003, published in the FEDERAL REGISTER (68 FR 45151) on July 31, 2003, the President implemented the Clean Diamond Trade Act, effective for rough diamonds imported into, or exported from, the United States on or after July 30, 2003. Pursuant to Executive Order 13312 and other authorities, the Office of Foreign Assets Control (OFAC), Department of the Treasury, promulgated the Rough Diamonds Control Regulations (see 31 CFR part 592). Any persons importing into or exporting from the United States a shipment of rough diamonds must comply with the requirements of CBP, OFAC, and the U.S. Census Bureau (15 CFR part 30).

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Controlled through the Kimberley Process Certification Scheme.* “Controlled through the Kimberley Process Certification Scheme” means meeting the requirements set forth in 31 CFR 592.301;

(2) *Kimberley Process Certificate.* “Kimberley Process Certificate” means a forgery resistant document that meets the minimum requirements listed in Annex I of the Kimberley Process Certification Scheme, as well as the requirements listed in 31 CFR 592.307;